

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v.-

JORGE PEREZ,

Defendant.

USDC SDNY
DOCUMENT
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DOC #: _____
DATE FILED: **5/5/2025**

24 Civ. 0368 (JHR)

ORDER

JENNIFER H. REARDEN, District Judge:

Upon review of the parties' sentencing submissions, ECF Nos. 45 (Defense Submission), 46 (Government Submission); the presentence investigation report, ECF No. 41; and authorities bearing on the points therein, the Court is hereby adjourning the sentencing proceeding in this matter. The Court will hold open **May 22, 2025** at **11:15 a.m.** and **May 27, 2025** at **11:45 a.m.** for Defendant Perez's sentencing.

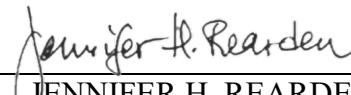
In calculating the Defendant's Guidelines range, the parties and the Probation Office included a prior "conviction for driving while ability impaired ['DWAI'] in 2015," rendering the Defendant "ineligible for the two-level reduction for zero-point offenders found in U.S.S.G. § 4C1.1." Government Submission at 2-3; *see also*, e.g., Defense Submission at 22-23.

By **May 12, 2025**, the Defendant shall file a memorandum of law addressing the applicability to his sentencing of *United States v. Gonzalez-Rivera*, No. 05 Cr. 402, 2011 WL 4916395 (S.D.N.Y. Oct. 17, 2011) (holding that "a DWAI offense cannot be said to be 'categorically more serious' than a reckless driving offense" under United States Sentencing Guidelines section 4A1.2(c)(1) and excluding the DWAI offense from the defendant's criminal history calculation). *See United States v. Potes-Castillo*, 638 F.3d 106 (2d Cir. 2011) (remanding to "apply section 4A1.2(c)(1)" to the defendant's DWAI conviction "when calculating [his] criminal history category."). The submission also should discuss the impact on

the Defendant's DWAI offense, if any, of the 2012 Sentencing Commission amendments to Application Note 5 to section 4A1.2(c). *See United States v. Paredes*, 185 F. Supp. 3d 287, 295 (E.D.N.Y. 2016). The Government shall file a response by **May 19, 2025**.

SO ORDERED.

Dated: May 5, 2025
New York, New York



JENNIFER H. REARDEN
United States District Judge